IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION No.10553 of 2007

DATED: 04.06.2007

Between:

G.Abraham

..... Petitioner

And

The Assistant Accounts Officer,
A.P.E.P.D.C.Ltd., E.R.O.,
Nidadavole, West Godavari
District and another.

.....
Respondents

HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION No.10553 of 2007

ORAL ORDER:

Questioning the impugned order, dated 17.03.2007, issued by the 1st respondent, placing the petitioner under suspension on the ground that he is involved in a criminal case in Crime No.18 of 2007 registered for the offences

under Sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act (for short 'the Act'), 1956 of Kovvur Police Station, the present writ petition is filed.

2. The petitioner is working as Lower Division Clerk in the respondent-Corporation. He states that while he was on medical leave from 24.01.2007 to 15.02.2007, the Police, Kovvur Police Station implicated him in a criminal case and arrested him on 25.01.2007 alleging that he committed the offences punishable under Sections 3, 4 and 5 of the Act, and consequently, the impugned order was issued suspending him from service. His grievance is that the alleged criminal case registered against him is not at all connected to his official duties, and therefore, the action of the respondent-Corporation in suspending him from service is illegal and arbitrary. Hence, he filed the present writ petition.

3. The learned counsel for the petitioner submits that the petitioner has been placed under suspension on the ground that he is involved in a criminal case. He submits that the said offences are nothing to do with the day-to-day discharge of the official duties of the petitioner. Learned counsel further submits that the case registered against the petitioner not being in connection with discharge of the duties of the petitioner and he having not committed any irregularities in the discharge of his duties,

the respondents before placing him under suspension, ought to have seen whether continuance of the petitioner in service for his involvement in criminal case, had any impact on his official duties. In support of this argument, he placed reliance on the judgment rendered by a Division Bench of this Court in

P. Rajender v. Union of India[1]. He submitted that since the offences alleged against the petitioner in the criminal case has nothing to do with the day-to-day discharge of his duties, and he having been falsely implicated in the said crime, prayed that the respondents be directed to review the continuation or otherwise of his suspension.

4. None appears for the respondent-Corporation. Heard the learned counsel for the petitioner and perused the material on record.

5. The reason for placing the petitioner under suspension is that he was involved in a criminal case registered under Sections 3, 4 and 5 of the Immoral Traffic (Prevention) Act, 1956 on the file of Kovvur Police Station. Whether the case registered against the petitioner has

any nexus or impact on the discharge of his official duties, is a matter which has to be examined in the light of the F.I.R. registered against the petitioner. In fact, a Division

Bench of this Court, in P. Rajender's case (cited supra), having considered similar issue, as is involved in this case, held as follows:

> "Suspension pending investigation, inquiry or trial is interim in nature. The aforementioned rule clearly suggests that an order of suspension is not required to be passed only because it will be lawful to do so. An application of mind on the part of the competent authority is *sine qua non* for passing such order of suspension, therefore, it is expected that the appropriate authority shall not only take into consideration the public interest but shall also take into consideration the relevant facts and attendant circumstances as to how far and to what extent the public interest may suffer if the delinquent officer is not placed under suspension."

6. From the above, it is clear that the authority before placing an employee under suspension on the ground that a criminal case is registered and is pending investigation, has to apply its mind as to whether any public interest would suffer if the delinquent officer is not placed under suspension. Admittedly, the respondent passed the impugned order, placing the petitioner under suspension, without considering the aspect whether the criminal case registered against the petitioner under Sections 3,4 and 5 of Immoral Traffic (Prevention) Act, 1956 on the file of Kovvur Police Station, has any effect or

impact on the day-to-day discharge of his duties and that

public interest would suffer if the petitioner was not kept under suspension, and more particularly when it is the specific case of the petitioner that he was falsely implicated by the police when he was on medical leave.

7. In the above view of the matter, I deem it appropriate to dispose of the writ petition with the following directions:

8. The petitioner is directed to submit a detailed explanation to the 1st respondent-The Assistant Accounts Officer, requesting him to revoke his suspension, and on submitting such explanation,

the 1st respondent- The Assistant Accounts Officer is directed to consider the explanation of the petitioner for revocation of his suspension, in the light of the judgment rendered by the Division Bench of this Court in P.Rajender's case (supra), and pass appropriate orders thereon, expeditiously, preferably within a period of four weeks from the date of receipt of a copy of this order.

9. Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J

Dated:04.06.2007

Dr/ksr

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[1] 2001 (5) ALD 290 (DB)